

The practitioner's perspective

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Sanctions work in Zurich falls into four broad areas: compliance programmes, licensing and interpretation requests to SECO, criminal and administrative defence, and the tracing and management of frozen assets. Each requires a combination of Swiss law, foreign law and factual investigation that few other fields demand to the same extent.

A sanctions compliance programme for a Swiss financial institution begins with a risk assessment that identifies the institution's exposure by client base, products, currencies and geography. On that basis the institution defines which lists it screens against, how it treats matches and near matches, when relationships are escalated to compliance and to senior management, and when it reports to SECO. Ownership and control analysis has become a core component since SECO published its criteria in 2024. For industrial exporters the programme includes classification of goods under the GKV annexes and the annexes of the Russia ordinance, end-use checks, screening of distributors and contractual clauses. The internal compliance programme recommended by SECO and by the literature comprises management commitment, a code of conduct, adapted processes, training, goods classification, party screening and regular audits.¹ Since the twentieth package, exporters of tankers must in addition insert "no-Russia" clauses into their contracts and notify SECO. A programme that exists only on paper is of little help in enforcement proceedings. SECO and FINMA ask how alerts were handled, how quickly the lists were updated and whether the compliance department's warnings were heeded, as the MBAer case showed in its most extreme form.

Licensing and interpretation requests to SECO form the second area. A listed person who needs funds for living expenses, legal fees, taxes or the maintenance of property must apply for an exception under Article 15 of the Russia ordinance. So must a creditor who wishes to be paid under a contract concluded before the listing, or the winner of an arbitral award

against a listed party. The application must set out the facts, the legal basis of the exception and the amount requested, supported by documents. SECO consults other authorities where required and decides by ruling, which can be challenged before the Federal Administrative Court. Counterparties of Russian entities who are unsure whether a transaction is permitted may also ask SECO for its view. The answers are informal and not binding, but they carry weight in later proceedings because they show that the institution acted in good faith. Experience shows that well-prepared applications with complete ownership charts and documentary evidence are decided more quickly than general enquiries, although processing times of several months are not unusual in complex cases.

Criminal and administrative defence is the third area. Defence counsel in a SECO investigation must first establish whether the case will remain within the administrative criminal procedure or whether it is likely to be transferred to the OAG, which will be the case where money laundering or serious offences are suspected. In the administrative procedure the early submissions are decisive, since SECO decides on the basis of the file. Questions of negligence and of the reliance on third-party information, for example classification advice or ownership declarations, often determine the outcome. Companies should consider whether cooperation and voluntary disclosure are advisable. The Embargo Act contains no formal leniency regime, although cooperation can influence the assessment of culpability and the penalty. Where foreign authorities investigate in parallel, counsel must coordinate the Swiss defence with the foreign proceedings and observe Article 271 of the Criminal Code and the rules on data protection and banking secrecy.

The fourth area concerns the tracing and management of frozen assets. The freeze does not end the legal life of the assets. Companies owned by listed persons must be managed, properties must be maintained and insured, securities positions must be administered and tax returns must be filed. Each of these steps requires licences. Where a listed person has transferred assets before or after the listing, tracing is needed to establish whether the assets remain under his or her control. Swiss practitioners use the full range of tools: public registers, the corporate and land registers of several jurisdictions, bank documents obtained in civil proceedings and, where available, the records of criminal proceedings. The Swiss asset-recovery framework, which the following chapter describes, has so far been used only rarely against Russian sanctioned assets, since confiscation requires a criminal link. Creditors of listed persons, including Ukrainian and other claimants with arbitral awards or judgments, may nevertheless seek

attachment of frozen assets. The attachment itself does not require a licence, but any payment out of the frozen assets to satisfy the claim does.

A particular issue for Zurich lawyers is their own position under the sanctions. Lawyers who act as directors of companies, as trustees or as holders of client funds fall under the reporting duty of Article 16 and under the prohibition on making funds available in Article 15. The GPK-S recommended in 2023 that the relationship between the reporting duty and professional secrecy be clarified, as described in Section III. In practice, lawyers distinguish between the typical legal work of advice and representation, which is protected by secrecy, and the atypical business activities of asset management and directorships, which are not. The prohibition on legal advice to Russian companies in Article 28e adds a further layer: a Zurich lawyer may represent a Russian company in an arbitration or before a court, but may not advise it on a transaction outside the scope of the exceptions. Swiss lawyers who also hold admissions in the European Union or the United Kingdom must check the scope of those regimes as well, since they apply to their nationals and professionals wherever they practise.

1 Notes

1. Bertsch et al., Exportkontrolle «in a Nutshell» (cited above), section on the internal compliance programme. ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

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